

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
ANDREE LAYTON ROAF, Judge

DIVISION III

CACR05-1015

June 28, 2006

KIMBERLY MEDLING

APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

APPEAL FROM JACKSON COUNTY
CIRCUIT COURT
[NO. CR-2003-110]

HONORABLE HAROLD S. ERWIN,
CIRCUIT JUDGE

REBRIEFING ORDERED

On August 28, 2003, appellant Kimberly Medling pled guilty to possession of a controlled substance, a class C felony, and received a sentence of forty-eight months' probation. On April 26, 2004, the State filed a Petition for Revocation, alleging that Medling violated the terms and condition of her probation. After a July 27, 2005, revocation hearing the court revoked Medling's probation and sentenced her to twenty-four months in a regional punishment facility.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967) and Rule 4-3(j) (1) of the Arkansas Supreme Court Rules, Medling's counsel has filed a petition to withdraw, asserting that an appeal in this case would be frivolous. This motion was accompanied by a no-merit brief purporting to list all rulings adverse to Medling, along with an explanation as to why each adverse ruling does not constitute a meritorious ground for reversal. In accordance with Arkansas Supreme Court Rule 4-

3(j)(2), Medling was furnished with a copy of counsel's brief and provided with thirty days to raise her own points; however, she chose not to file any pro se points.

If, after a conscientious examination of the record, an attorney believes that an appeal would be wholly frivolous, he can request permission from the court to withdraw. *Anders, supra*. This request, however, must be accompanied by a brief discussing all adverse rulings that might arguably support the appeal and explaining why each adverse ruling is not a meritorious ground for reversal. *Eads v. State*, 74 Ark. App. 363, 47 S.W.3d 918 (2001). The ultimate decision to revoke probation is an adverse ruling that must be addressed by counsel seeking to withdraw from representation. *See generally, Barbee v. State*, 346 Ark. 185, 56 S.W.3d 370 (2001); *Brown v. State*, 85 Ark. App. 382, 155 S.W.3d 22 (2004).

Our review of the record reveals that counsel has failed to address the ultimate decision to revoke Medling's probation. In addition to this oversight, the argument section of counsel's brief consists solely of a single page that clearly was taken from another client's brief. There is thus no discussion of Medling's case contained in the argument. Because counsel's brief is not in compliance with the requirements of *Anders* and Rule 4-3(j), we deny the petition to withdraw and order rebriefing within thirty (30) days from the date of the entry of this order.

Rebriefing Ordered.

GLOVER and NEAL, JJ., agree.